IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant(s): Banerjee et al)
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Serial No.: 09/909,248)
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Filed: July 19, 2001)
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Title: Structure and Method for Controlling a Host)
Computer Using a Remote Hand-Held Interface)
Unit)
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)
Group Art Unit: 2672)

Examiner: Brier, Jeffrey A.

Customer No.: 27160

Confirmation No.: 9312

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO EXAMINER'S ANSWER

Sir:

Pursuant to 37 C.F.R. § 41.41, the Applicant hereby submits a reply to the Examiner's Answer within two months thereof. The Reply Brief does not include any new or non-admitted affidavit or other evidence. Since the Reply is being submitted within two (2) months of the Examiner's Answer, mailed on April 13, 2009, it is respectfully requested that the Reply Brief be entered.

There are several issues raised in the Examiner's Answer which are addressed separately below.

Construction of the Means Plus Function Language

The Examiner's construction of the means plus function language in the claims is inconsistent with 35 USC § 112, paragraph 6. Moreover, it is respectfully submitted that the Examiner's construction of the means plus language in the claims is incoherent. In particular, claim 1 recites in part

1. A mobile user interface ... comprising: ...

an input subsystem...; ...said input subsystem having a pen mode and a mouse mode and including means for monitoring pen down events of said passive stylus and emulating the movement of a mouse and the clicking of a mouse button in said mouse mode and means for translating pen events in a pen mode and means for switching between a pen mode and a mouse mode.

6. A computer system comprising: ...

(ii) an input device ...
(iv) a controller... being operable in a pen mode and a mouse mode and including means for monitoring pen down events of a passive stylus and emulating the movement of a mouse and the clicking of a mouse button in said mouse mode and means for translating pen events in a pen mode and means for switching between a pen mode and a mouse mode.

Page 3 of the Examiner's Answer states:

"Since the means plus function limitations do not clearly claim which subsystem or controller, view manager 200 anticipates or Pen Windows 310 which makes the final decision, is being claimed then the admitted Pen Windows prior art teaches that the added limitations teaches that the added limitations in this 3/15/04 amendment and the 8/12/03 amendment would have been obvious to one of ordinary skill in the art. "

It is respectfully submitted that the above passage is incoherent and is not consistent 35 USC § 112, paragraph 6, which states in essence that means plus function language is to be interpreted by the structure in the specification that performs the stated function. Although claim 1 recites the means plus function as part of an input subsystem and claim 6 does not identify a subsystem at all, it is irrelevant to the construction of the claim terms.

The Applicant's Admitted Prior Art relating to Pen Windows can be found on Page 8, line 31 to Page 9, line 20, repeated herein below.

"The operation of a stylus in stylus input subsystem 110 is next described. When used in the pen mode, a trail of ink tracking the path of the stylus is desired to maintain the pen paradigm and to provide on the pen digitizer visual feedback to the user. Under the mouse mode,

however, a cursor may be generated to follow the "tip" of the pen, but the path of cursor motion is not to be inked. In one proposed industry standard for a stylus or pen-based system, namely the Microsoft Windows for Pen Computing system ("Pen Windows"), the pen mode requires (i) a pen driver that can deliver stylus tip locations every five to ten milliseconds (100 to 200 times per second), so as to achieve a resolution of two hundred dots per inch (200 dpi), and (ii) a display driver that can connect these dots in a timely manner. By these requirements, Pen Windows attempts to provide real time response to maintain the pen paradigm. The Windows for Pen Computing system is promoted by Microsoft Corporation, Redmond, Wash. Details of the Pen Windows system are also provided in Windows version 3.1 Software Developer Kit obtainable from Microsoft Corporation. Under one implementation of the Pen Windows, a maximum of four stylus locations can be stored in a buffer of a module called "PENWIN.DLL" (for "Pen Window Dynamically Linked Library"). Consequently, in that implementation, the maximum latency allowed is twenty to forty milliseconds before any queue tip location is written. Each time the system fails to process a pen event within twenty to forty milliseconds of queuing, a stylus tip location is lost and there is a corresponding impact on the accuracy of the line being traced."

As mentioned above, the Pen Windows Admitted Prior Art mentions a mouse mode ("*Under the mouse mode, however, a cursor may be generated to follow the "tip" of the pen, but the path of cursor motion is not to be inked."*), however, the claims also recite "*emulating ... the clicking of a mouse button in said mouse mode..*" Nowhere does the Pen Windows Admitted Prior Art suggest or disclose that Pen Windows emulates the clicking of a mouse button. Rather, the emulation of a mouse mode is accomplished by an "RC Manager 350", i.e. software that forms part of the present invention. The Board's attention is respectfully directed to Page 20 of the specification, lines 20-35. A proper construction of the means plus function language with respect to emulation of the mouse buttons would read on the RC Manager 350 and not Pen Windows, as suggested by the Examiner. That said, the means for "emulating ... the clicking of a mouse button in said mouse mode" is properly construed to be a software program responsive to pen down events which translates those pen down events so as to emulate the functionality of associated with the clicking of a conventional mouse button.

Incorrect Interpretation of Applicant's Admitted Prior Art

It is respectfully submitted that the Examiner's rejection under 35 USC § 103 is based upon the Examiner's misinterpretation of Applicant's Pen Windows Admitted Prior Art. In particular, as discussed above, the Applicant's Pen Windows Admitted Prior Art does not disclose or suggest emulation of the functionality of associated with the clicking of a conventional mouse button.

For all of the above reasons, the Board is respectfully requested to reverse the rejection of the claims.

Respectfully submitted,

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